REMARKS

Claims 9, and 15-22 are in the case.

As stated in the Amendment of Feb. 4, 2010,

"[i]n paragraph 9 of the Official Action of Aug. 4, 2009, claims Claims 9 and 15-22 were rejected under 35 U.S.C. 112 as failing to comply with the enablement requirement regarding steps c) (identifying each need not met by current services as an opportunity gap;) and d) (for each geographic unit and day part, generating optimal facility locations and one or more optimal services corresponding to the facility locations and day parts selected from the group consisting of brands, hours, design layouts, and meal plans). In response, claim 9 has been amended to delete paragraph c). One of normal skill in this art would understand step d) and would know how to carry it out without undue experimentation.

"It should be pointed out that Examiner Cardenes-Navia and Supervisory Primary Examiner Bayat suggested the exact language of claims 9, 15, and 18 during the personal interview on June 23, 2009, with Ms. Royale, one of the inventors, and the undersigned. Applicants do not understand why the language was found to be acceptable, enabled, and supported by the specification during the personal interview and has now found to be non-enabled and therefore applicants request reconsideration of the holding with regard to former paragraph d) which is now paragraph c). The language and steps of subparagraph c) are easily accomplished with appropriate, easily designed algorithms, as is conventional in the field of computer science. The concept set forth in this subparagraph is to calculate with the algorithm(s) the most cost effective and profitable facility locations and services to be offered at those locations at each time of day, e.g., lunch, breakfast, dinner, after dinner, between meals, days of weeks, school holidays and vacations, and the like."

On page 4, second paragraph of the Official Action of Aug.4, 2009, the examiner rejected claims 9, 21, and 22 under 35 U.S.C. 112 because he believed that "undue experimentation is required to carry out the claimed invention. Specifically, generating optimal brands, hours, design layouts, and meal plans requires undue experimentation. There is no guidance and no working examples on how this is accomplished * * *."

First it should be noted that claim 9 does not mention "generating optimal brands, hours, design layouts, and meal plans." Rather claim 9 requires "generating a financial model for each of said optimal facility locations, programmed to optimize the campus food service system based on responses to surveys of patrons and potential patrons," and reconsideration of this rejection with respect to claim 9 is respectfully requested. Claim 9 does require inputting data with five different categories, including campus building locations, schedules, dining, and off-campus services. While the application does not disclose an example of a specific algorithm, it is respectfully asserted that inputting such data and processing it with any of a variety of algorithms would enable the segmenting and generating steps in claim 9.

Second, claims 21 and 22 require the limitation "generating optimal brands, hours, design layouts, and meal plans corresponding to the facility locations," to which the Examiner objected as not being enabled. Claim 21 is dependent on claim 9 and claim 22 is dependent on claim 18; claims 21 and 22 can be cancelled upon allowance of claims 9 and 18 if the non-enablement rejection is maintained. The generation of the optimal brands, etc., would be a relatively simple task to those skilled in the computer arts based on the data inputted according to the specification and drawings and claim 9. The specification and drawings provide extensive guidance to those skilled in this art as to the classes of data collected, processed by the computer, and the output desired after the data is processed according to the computer program.

Third, claim 16 requires "generating a plan for providing, updating, and /or expanding services based on population and sub/population factors." The Examiner felt this language was too broad and questioned what exactly is the plan, how detailed is it, and what type of services are included. This generating step would be easily programmed in a computer to process the data inputted according to claim 9 and according to the specification and drawings. Claim 16 is dependent on claim 9 and can be cancelled upon allowance of claim 9 if the examiner maintains the rejection of claim 16 under 35 U.S.C. 112.

It is respectfully submitted that applicant has now responded to all grounds of rejection, including the grounds pointed out in the Official Action of May 24, 2010 as not having been previously responded to.

Accordingly, it is believed that all of the claims are in condition for allowance. An early notice thereof is solicited.

Respectfully submitted,

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